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| 09/750,105   | 12/29/2000  | James M. Rogers      | 20009.0050US01<br>(BS00-139) | 6282             |
| 45695  | 7590        | 12/23/2008           | EXAMINER                     |                  |
| AT&T Legal Department<br>Attn: Patent Docketing<br>Room 2A-207<br>One AT&T Way<br>Bedminster, NJ 07921 |             |                      | GRAHAM, PAUL J               |                  |
|  |             |                      | ART UNIT                     | PAPER NUMBER     |
|  |             |                      | 2426                         |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/750,105 | <b>Applicant(s)</b><br>ROGERS ET AL. |  |
|                              | <b>Examiner</b><br>PAUL GRAHAM       | <b>Art Unit</b><br>2426              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 7-11 and 24-31 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-11, 24-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/16/08 has been entered.

### ***Response to Arguments***

2. Applicant argues:

*The cited references do not describe the set of characteristics is unassociated with one or more viewers.*

The Examiner notes that this negative limitation does not enjoy support in the instant specification. Being in violation of 35 USC § 112 it is an improper amendment to the claim language.

*The property of transitivity does not necessarily flow from the best fit method of Knee.*

The Examiner respectfully disagrees. Firstly, the only one asserting that the property of transitivity must flow from the best fit model of Knee is the applicant. The applicant is invited to revisit the Office Action, 7/21/08, to note that it is Knee's methodology that uses the well-known principle of transitivity, not a particular method of Knee that, with a substitution method, combines a best fit method with the transitivity principle (as is

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shown in the applicant's remarks of 10/16/08). The applicant's example of remarks 10/16/08 are misguided on several counts. First, it has not been said nor suggested that the best fit method has been substituted into the transitivity property. Second, the transitivity property is a relation property, which denotes a relation among elements in a set. There are some relations that are not transitive; therefore the use of a differencing rule substituted into the transitivity property (as applied by the applicant in remarks 10/16/08) is one of them.

However, it is Knee's *methodology* to compare (or relate) advertisements to each other (i.e., elements in a set of advertisements) (see Knee, [40-49]). In the various methods that Knee uses his overarching *methodology* is to compare (or relate) the advertisements to each other. The "selected values for the ads is *met* (i.e., compared or related to) values for a user, and therefore compared to each other (via transitivity) (see Knee [43 and 46]). The advertisement values are compared to a user value for the advertisements of record (each advertisement), to determine which ad to display (see Knee [49]). In any case, Knee compares one ad to another, where the criteria for selection is the nearest match to a preference. Figure 5 further supports this denoting that several appealing ads are received by the delivery device, the ads are compared to each other through a selection of matching with preference information (see Knee, fig. 5).

It is noted that the applicant was not fully responsive to the rejections. Given that any argument regarding Knee is rendered moot, by the fact that use of the Ficco reference also denotes a method for inserting targeted ads into a delivery

stream, where a plurality of ads are received as pre-identified to appeal to preferences (see Ficco, fig. 1 and 2), data representing characteristics associated with the ads is received (see Ficco, [39]), creating a record associated with the ads (see Ficco, [43]), searching the records for ads satisfying a classification (see Ficco, [43-44, 84-90]), comparing the ads on at least two classification elements (or weightings) (see Ficco, [43-45]), insert ad and transmit request, (see Ficco, fig. 5).

Therefore, the applicant's arguments have been fully considered and are not persuasive. Claims 1-3, 7-11, 24-31 stand rejected.

### ***Claim Objections***

3. Claim 31 is objected to because of the following informalities: Claim 31 depends from claim 32, however, claim 32 has not been presented to the Office. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 1, 7, 24-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

New claims 24-31 recite: "a computer readable medium containing instructions for performing acts when executed on a computing device, comprising...". This limitation does not find support in the instant application.

Amended claim 1 and 24 recites "**...receiving at a media delivery device a plurality of advertisements pre-identified by a transmitting entity to appeal to a preference of one or more viewers**" and as currently limited claim 1 does not have support for stated language in the instant disclosure. There is no support for *pre-identified* advertisements, given that the STB locates an appropriate ad from storage (identifying the ad), said ad is not therefore identified before STB receives it. In fact, the programming source (a transmitting entity) is "disconnected" and then the advertisement is identified and placed for display delivery from storage, furthering the notion that the ad is identified after reception at the STB (media delivery device).

Amended claim 1 recites: "...each of the sets of characteristics being unassociated with the one of more viewers ...". There is no support for this negative limitation in the instant disclosure; in fact, just the opposite is asserted: age and gender (demographics) are targeted which certainly associates the characteristics with viewers as well as the tracking data.

There is no support for "creating a record associated with each of the plurality of advertisements, the record including a classification for each data element of the set

of characteristics “ in the instant disclosure and therefore no support for assigning a weighting to at least two data elements in each record of the plurality of advertisements.

The amended claim 1 and 24 recites: “ the signal including a at least one classification requirement for the inserted stored advertisement”, yet there is no support for this limitation in the instant disclosure. There is mention of authorization, but this is NOT a classification requirement; therefore there is also no support for searching each record for a stored ad having the at least one data element satisfying the classification requirement.

The amended claim 1 and 24 recite: “... by comparing directly together each of the at least two element weightings in the record...”. There is no support for this limitation in the instant specification. In fact, the disclosure notes that the matching commercials are then compared to an element of tracking (which is not a property of the other commercial), to decide or select a commercial for display, passing up a commercial with frequent air time. Therefore this indirect comparison of commercials given a tracking element directly opposes the notion that commercials are compared "*directly together*" for selecting the stored ad to be inserted.

Applicant's remarks, 10/16/08 were not fully responsive to the 112 rejections. It was noted that amended claim 7 did not find support in the instant disclosure. This rejection is maintained and extended to claim 27 which recites the same limitations. Amended claims 7 and 27 recite the scheduling data of a television program (i.e., “ the time and day of the week”) and the type of television program. However, it is

unclear from the instant specification how categorization of television programs are possible and time of day of the week of program is possible given minimal mention of program scheduling such as an EPG and no mention of program categories.

There is no support for the amendment "...classification requirement for the inserted stored advertisement..." found in the instant specification.

Amended claim 1 recites: "...**When** the search produces more than one stored ad...", where this is used in the instant specification notes: a method of selecting ads is **not** comparing them together, but checking the frequency of the ads playtime (see Instant spec) or sponsorship is verified and followed up with to see if they may be amenable to paying higher fees, therefore no support is found for this amended claim language.

There is not support for the assertion of "...searching *each* record or the plurality of advertisements for a stored advertisement having the at least one data element satisfying the classification *requirement* that is provided in the signal...".

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



7. Claim 1-3, 7-11 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US Pat No. 6,698,020) in view of Knee et al. (US Pub No. 2002/0095676 A1) in view of Ficco (US 2005/0166224 A1).

Regarding claim 1, Zigmond et al. discloses a “method for inserting targeted advertisements into a media delivery stream during broadcast media program” using the apparatus of Figure 3.

Receiving at a media delivery device a plurality of advertisements pre-identified by a transmitting entity to appeal to a preference of one or more viewers (see Zigmond, fig. 1,3, 5, 7, col. 3, l. 45-col. 4, l. 67) As illustrated in Figure 5, the method comprises “receiving and storing data representing a set of characteristics associated with each of the plurality of advertisement received by the media delivery device” [80] in a “database” [86] or organized data structure containing a number of records in the form of advertisements (Zigmond notes wherein the “stored advertisements are each of a type that is determined to appeal to one or more users of the media delivery device” (Col 12, Lines 15-24; Col 13, Lines 7-12)).

The apparatus “receives a signal in the media delivery device” associated with the vertical blanking interval “to insert a stored advertisement into the media delivery stream during broadcast media programming wherein the signal to insert the stored advertisement is sent with the broadcast media programming” (Col 15, Lines 35-65). The ‘signal’ associated with the vertical blanking interval also “includes at least one classification of the plurality of classifications” for selecting a commercial stored in the database for insertion into the media delivery stream (Col 11, Lines 31-49; Col 11, Line 66 – Col 12, Line 32; Col 16, Lines 43-56, a requirement). The apparatus “searches . . . for the stored advertisement having the at least one classification that is provided in the signal” and “inserts [the selected] advertisement stored in the database into the media delivery stream” (Col 15, Lines 56-65). Knee shows searching each record of the plurality of advertisements (see Fig. 2, noting ads records are searched for data element satisfying the classification requirement). Subsequently, the

system “transmits a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device” (Col 15, Lines 2-16).

In selecting an advertisement for insertion, the Zigmond et al. reference contemplates that a “search by classification [may] produce more than one stored advertisement” whereupon the system selects one advertisement for insertion (Col 16, Line 65 – Col 17, Line 9). Part of the selection criteria may include demographic information (Col 14, Lines 34-48). Zigmond et al., however, is unclear with respect to the particular usage of ‘weighting’ in selecting between multiple advertisements that match a given category.

In an analogous art pertaining to the problem of advertisement insertion, the Knee et al. reference discloses “ in a data table associated with each of [a] plurality of advertisements [wherein] the data table includes a plurality of classifications [or demographic categories] for each of the plurality of advertisements” and “assigning a weighting to at least two elements in each record of the plurality of advertisements” (Figure 2, including classification for each data element of the set). Subsequently, the system “searches the data table . . . [and] if the search by classification produces more than one stored advertisement, then selecting the stored advertisement to be inserted by comparing each of the at least two classification weightings in the table for each of the stored advertisements that were produced by the search” ; (Para [0029] – [0034], [0046], [0047], and [0049], a data table made up of records). For example, even though both advertisements match being for ‘sports fans’ a closest match fit would result in the selection of advertisement #2. As evidenced by Knee et al., the technique of categorization ‘weighting’ for selecting between advertisements that meet a desired classification in order to choose the best advertisement for display was part of the ordinary capabilities of a person of ordinary skill in the art. Therefore, it would have been obvious to one having ordinary skill in the art to utilize the known technique with Zigmond et al. so as to refine its advertisement selection process using demographic information (Knee et al.: Para. [0007] - [0008]).

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Knee does teach comparing the two advertisements together, when the search produces more than one stored advertisement satisfying at least one classification requirement (see Knee, each ad compared in fig. 2 satisfy a requirement), at least via the well-known transitivity principles (see Knee, fig. 2 and [46-49] and p. 6, claim 14; Knee's methodology makes use of the well known mathematical principle of transitivity, that is, Knee at least compares the values of ad 1 to a benchmark (e.g. a profile) and then compares the values of ad 2 to a benchmark and the benchmark being the same set of values for the comparisons allows the user of transitivity to compare the values of ad 1 and the values of ad 2 together. So, if ad 1 = A and ad 2 = C and the benchmark = B, then if  $A > B$  and  $B > C$ , then  $A > C$ .); however, Knee is unclear about on-the-fly individualization of ads in comparing the sets together.

Ficco, who discloses broadcast advertisement adaptation, does also teach such comparison (see Ficco, [5, 10, 36], the Ficco reference also denotes a method for inserting targeted ads into a delivery stream, where a plurality of ads are received as pre-identified to appeal to preferences (see Ficco, fig. 1 and 2), data representing characteristics associated with the ads is received (see Ficco, [39]), creating a record associated with the ads (see Ficco, [43]), searching the records for ads satisfying a classification (see Ficco, [43-44, 84-90]), comparing the ads on at least two classification elements (or weightings) (see Ficco, [43-45]), insert ad and transmit request, (see Ficco, fig. 5)).

Therefore, in further support of the non-obvious status of the claims, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the system of Zigmond and Knee with that of Ficco in order to individualize the process on the fly (see Ficco, [5, 10]).

Claim 2 is rejected wherein the "advertisements are television commercials" (Zigmond et al.: Col 1, Lines 14-22; Col 7, Lines 13-25).

Claim 3 is rejected wherein the "media delivery device is a set top box for receiving broadcast signals for a cable or satellite television network system" (Zigmond et al.: Col 7, Lines 1-12 and 37-51).

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Claim 7 is rejected wherein the method further comprises the “creating and weighting a sub-classification for each classification” in accordance with the advertisement selection rules [83] (i.e. a given rule specifying a particular criterion defines an absolute weight) (Zigmond et al.: Col 11, Lines 31-49) wherein the “sub-classifications include at least two of: a frequency by which each resulting commercial has been inserted [and] a correlation between a product being advertised and the type of a television program” (Zigmond et al.: Col 12, Lines 60 – Col 13, Line 6; Col 13, Line 40-47, the identity of advertiser is part of comparison of income for targeting (Knee [32]), types of broadcasts and time of day of program are attainable through use of program guide (see Knee, fig. 1, 3,4)).

Claim 8 is rejected wherein the “plurality of stored advertisements are received by the media delivery device as encoded data files through the telecommunications link to an external database of advertisements” (Zigmond et al.: Col 14, Line 66 – Col 15, Line 17; Col 15, Lines 24-34).

Claim 9 is rejected wherein the method further comprises “transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device” (Zigmond et al.: Col 9, Lines 21-38) and “classifying the stored advertisements according to a plurality of categories, which includes a classification according to the type of advertisement that is stored” (Zigmond et al.: Col 11, Lines 37-42; Col 12, Lines 26-33).

Claim 10 is rejected wherein “after transmitting the request, receiving download signals from the broadcast media stream in the media deliver device to download the data files representing the advertisements for storage in the media delivery device, wherein for each advertisement the signals include a classification as provided in the table for selecting an advertisement stored in the database for insertion into the media delivery stream” (Zigmond et al.: Col 12, Lines 26-33; Col 14, Line 66 – Col 15, Line 16) and “downloading the data files representing the advertisements having a classification as provided in the table that matches a pre-stored classification in a list of classification indicating the one or more types of advertisements that appeal to users of the media delivery device” (Zigmond et al.: Col 14, Lines 24-27; Col 15, Lines 17-23).

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Regarding claim 11, the combined references are unclear with respect to the 'demographic information' of Knee further including a category for location of sponsor' type of product advertised". Zigmond et al. discloses targeting advertisements based on location (Zigmond et al.: Col 14, Lines 48-53). The examiner takes OFFICIAL NOTICE that location information as a demographic classifier is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined references such that the "weighted classifications in the table include . . . location of sponsor" for the purpose effectively targeting advertisements to those most likely interested in the products or services they offer (Knee et al.: Para. [0007]). For example, a west coast chain of automobile dealerships would not likely be patronized by a east coast resident. Therefore, an advertisement for that west coast dealership would not be as effective on the east coast.

Regarding claim 24, Zigmond et al. discloses a "method for inserting targeted advertisements into a media delivery stream during broadcast media program" using the apparatus of Figure 3 and Zigmond discloses a computer-readable media with instructions for performing acts when executed on, comprising (see Zigmond, col. 6, ll. 46-57, it is noted that this limitation does not have support in the instant application and is therefore in violation of 35 USC § 112 ).

Receiving at a media delivery device a plurality of advertisements pre-identified by a transmitting entity to appeal to a preference of one or more viewers (see Zigmond, fig. 1, 3, 5, 7, col. 3, l. 45-col. 4, l. 67) As illustrated in Figure 5, the method comprises "receiving and storing data representing a set of characteristics associated with each of the plurality of advertisement received by the media delivery device" [80] in a "database" [86] or organized data structure containing a number of records in the form of advertisements (Zigmond notes wherein the "stored advertisements are each of a type that is determined to appeal to one or more users of the media delivery device" (Col 12, Lines 15-24; Col 13, Lines 7-12)).

The apparatus “receives a signal in the media delivery device” associated with the vertical blanking interval “to insert a stored advertisement into the media delivery stream during broadcast media programming wherein the signal to insert the stored advertisement is sent with the broadcast media programming” (Col 15, Lines 35-65). The ‘signal’ associated with the vertical blanking interval also “includes at least one classification of the plurality of classifications” for selecting a commercial stored in the database for insertion into the media delivery stream (Col 11, Lines 31-49; Col 11, Line 66 – Col 12, Line 32; Col 16, Lines 43-56, a requirement). The apparatus “searches . . . for the stored advertisement having the at least one classification that is provided in the signal” and “inserts [the selected] advertisement stored in the database into the media delivery stream” (Col 15, Lines 56-65). Knee shows searching each record of the plurality of advertisements (see Fig. 2, noting ads records are searched for data element satisfying the classification requirement). Subsequently, the system “transmits a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device” (Col 15, Lines 2-16).

In selecting an advertisement for insertion, the Zigmond et al. reference contemplates that a “search by classification [may] produce more than one stored advertisement” whereupon the system selects one advertisement for insertion (Col 16, Line 65 – Col 17, Line 9). Part of the selection criteria may include demographic information (Col 14, Lines 34-48). Zigmond et al., however, is unclear with respect to the particular usage of ‘weighting’ in selecting between multiple advertisements that match a given category.

In an analogous art pertaining to the problem of advertisement insertion, the Knee et al. reference discloses “in a data table associated with each of [a] plurality of advertisements [wherein] the data table includes a plurality of classifications [or demographic categories] for each of the plurality of advertisements” and “assigning a weighting to at least two elements in each record of the plurality of advertisements” (Figure 2, including classification for each data element of the set). Subsequently, the system “searches the data table . . . [and] if the search by classification produces more than one

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stored advertisement, then selecting the stored advertisement to be inserted by comparing each of the at least two classification weightings in the table for each of the stored advertisements that were produced by the search” ; (Para [0029] – [0034], [0046], [0047], and [0049], a data table made up of records). For example, even though both advertisements match being for ‘sports fans’ a closest match fit would result in the selection of advertisement #2. As evidenced by Knee et al., the technique of categorization ‘weighting’ for selecting between advertisements that meet a desired classification in order to choose the best advertisement for display was part of the ordinary capabilities of a person of ordinary skill in the art. Therefore, it would have been obvious to one having ordinary skill in the art to utilize the known technique with Zigmond et al. so as to refine its advertisement selection process using demographic information (Knee et al.: Para. [0007] - [0008]).

Knee does teach comparing the two advertisements together, when the search produces more than one stored advertisement satisfying at least one classification requirement (see Knee, each ad compared in fig. 2 satisfy a requirement), at least via the well-known transitivity principles (see Knee, fig. 2 and [46-49] and p. 6, claim 14; Knee’s methodology makes use of the well known mathematical principle of transitivity, that is, Knee at least compares the values of ad 1 to a benchmark (e.g. a profile) and then compares the values of ad 2 to a benchmark and the benchmark being the same set of values for the comparisons allows the user of transitivity to compare the values of ad 1 and the values of ad 2 together. So, if ad 1 = A and ad 2 = C and the benchmark = B, then if  $A > B$  and  $B > C$ , then  $A > C$ .); however, Knee is unclear about on-the-fly individualization of ads in comparing the sets together.

Ficco, who discloses broadcast advertisement adaptation, does also teach such comparison (see Ficco, [5, 10, 36], the Ficco reference also denotes a method for inserting targeted ads into a delivery stream, where a plurality of ads are received as pre-identified to appeal to preferences (see Ficco, fig. 1 and 2), data representing characteristics associated with the ads is received (see Ficco, [39]), creating a record associated with the ads (see Ficco, [43]), searching the records for ads satisfying a

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classification (see Ficco, [43-44, 84-90]), comparing the ads on at least two classification elements (or weightings) (see Ficco, [43-45]), insert ad and transmit request, (see Ficco, fig. 5)).

Therefore, in further support of the non-obvious status of the claims, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the system of Zigmond and Knee with that of Ficco in order to individualize the process on the fly (see Ficco, [5, 10]).

As to claims 25-31, they are analyzed similarly to claims 2-3, 7-11, respectively.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will



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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL J. GRAHAM whose telephone number is (571)270-1705. The examiner can normally be reached on Monday-Friday 8:00a-5:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

pjg  
12/12/08

/Annan Q Shang/

Primary Examiner, Art Unit 2424